

AMENDMENTS TO THE DRAWINGS

Please delete Figure 2 from the original sheets of drawings.

Attachment: Annotated sheet of Figure 2 showing the changes.

REMARKS

This is a full and timely response to the Office Action mailed January 28, 2009, submitted concurrently with a Request for Continued Examination and a first month extension of time to extend the due date for response to May 28, 2009.

By this Amendment, claim 11 has been amended to be in independent form, and claim 14 has been amended to depend thereon. Further, new claims 15-22 have been added to depend directly or indirectly on amended claim 11. Lastly, claims 1-10 have been canceled without prejudice or disclaimer to their underlying subject matter. Thus, claims 11-22 are currently pending in this application. Support for the claim amendments and new claims can be readily found variously throughout the specification and the original claims.

In view of these amendments, Applicant believes that all pending claims are in condition for allowance. Reexamination and reconsideration in light of the above amendments and the following remarks is respectfully requested.

Examiner Telephone Interview and Change of Election of Restriction Requirement

Applicant has amended the claims in accordance with the Examiner Telephone Interview dated May 28, 2009. As noted above, Applicant has canceled claims 1-10, amended claim 11 to be in independent form, and amended claim 14 and added new claims 15-22 to depend on claim 11. New claims 15-22 have been added in correspondence with the subject matter in canceled claims 2-9. Applicant hereby changes their election of April 8, 2008 from Group I, claims 1-9, to Group III, claims 11-13. Applicant also maintains their election of the cultured mammalian cell derived from gonad as the elected Specie (readable on claims 11 and 20), without traverse, for continued examination. Applicant wishes to thank the Examiner for allowing this change of election and respectfully requests the Examiner to continue examination in view thereof.

Rejections under 35 U.S.C. §102 and §103

Claims 1-5 and 7-8 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Elliot et al. (U.S. Patent No. 5,716,985). Further, claim 9 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Elliot et al. (U.S. Patent No. 5,716,985) in view of Reiter et al.

(U.S. Patent No. 6,475,725). These rejections have been rendered moot by the cancellation of the rejected claims.

Claim 14 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Elliot et al. in view of either Shay et al. (U.S. Patent No. 6,210,915) or Brewer (U.S. Patent No. 5,543,499). This rejection has been overcome by the amendments to claim 14 to depend on non-rejected claim 11.

Applicant also believes that Elliot et al. either alone or in combination with Reiter et al., Shay et al., and Brewer, fails to teach or suggest the present invention of claims 11-22.

To constitute anticipation of the claimed invention under U.S. practice, the prior art reference must literally or inherently teach each and every limitation of the claims. Further, to establish a *prima facie* case of obviousness, the cited reference(s) must teach or suggest the invention as a whole, including all the limitations of the claims. Here, in this case, none of the cited references specifically teach or suggest "*A method for cell-free protein synthesis, comprising using a cultured mammalian cell extract liquid to conduct a cell-free protein synthesis reaction, said cultured mammalian cell extract liquid being prepared by a preparation method comprising at least the step of rapidly freezing a cultured mammalian cell suspended in a solution for extraction*".

Based on Applicant's review of the cited references, none of the cited references teach or suggest the limitation "*using a cultured mammalian cell extract liquid to conduct a cell-free protein synthesis reaction*". In particular, Elliott et al. only teaches a CHO Cell Membrane Preparation for a binding assay which is completely unrelated to the cell-free protein synthesis reaction and cultured mammalian cell extract of the present invention.

Thus, since none of the cited references teach or suggest all of the limitations of the newly amended claims, Applicant believes that the present claims are patentable over the cited references of record.

CONCLUSION

For the foregoing reasons, all the claims now pending in the present application are believed to be clearly patentable over the outstanding rejections. Accordingly, favorable reconsideration of the claims in light of the above remarks is courteously solicited. If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the below-listed number.

Dated: May 28, 2009

Respectfully submitted,

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<p>Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 50-4422 for any such fees; and applicant(s) hereby petition for any needed extension of time.</p>
